
HOUSE BILL No. 1664

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-10-6; IC 12-15-7-2.

Synopsis: Monthly personal allowance. Increases from \$50 to \$100 the monthly personal allowance for an individual receiving assistance who is residing in a county home, a residential care facility, a hospital, or a nursing facility.

Effective: July 1, 2001.

Smith M

January 17, 2001, read first time and referred to Committee on Ways and Means.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1664

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 12-10-6-1, AS AMENDED BY P.L.272-1999,
2 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2001]: Sec. 1. (a) An individual who:

- 4 (1) is at least sixty-five (65) years of age, blind, or disabled; and
5 (2) is a resident of a county home;

6 is eligible to receive assistance payments from the state if the
7 individual would be eligible for assistance under the federal
8 Supplemental Security Income program except for the fact that the
9 individual is residing in a county home.

10 (b) The amount of nonmedical assistance to be paid on behalf of a
11 resident in a county home must be based on the daily rate established
12 by the division. The rate for facilities under this section and licensed
13 under IC 16-28 may not exceed an upper rate limit established by a rule
14 adopted by the division.

15 (c) The rate for facilities under this section but not licensed under
16 IC 16-28 must be the lesser of:

- 17 (1) an upper rate limit established by a rule adopted by the



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division; or

(2) a reasonable and adequate rate to meet the costs, determined by generally accepted accounting principles, that are incurred by efficiently and economically operated facilities in order to provide care and services in conformity with quality and safety standards and applicable laws and rules.

(d) The recipient shall be paid or allowed to retain from the recipient's income a monthly personal allowance. The amount:

(1) is ~~fifty~~ **one hundred** dollars ~~(\$50); (\$100);~~

(2) is exempt from income eligibility consideration by the division; and

(3) may be exclusively used by the recipient for personal needs.

(e) In addition to the amount that may be retained as a personal allowance under this section, an individual is allowed to retain an amount equal to the individual's state and local income tax liability. The amount that may be retained during a month may not exceed one-third (1/3) of the individual's state and local income tax liability for the calendar quarter in which the month occurs. This amount is exempt from income eligibility consideration by the division. The amount retained shall be used by the individual to pay state or local income taxes owed.

(f) In addition to the amounts that may be retained under subsections (d) and (e), an eligible individual may retain a Holocaust victim's settlement payment. The payment is exempt from income eligibility consideration by the division.

(g) The personal allowance for one (1) month for an individual described in subsection (a) is the amount that an individual would be entitled to retain under subsection (d) plus an amount equal to one-half (1/2) of the remainder of:

(1) gross earned income for that month; minus

(2) the sum of:

(A) sixteen dollars (\$16); plus

(B) the amount withheld from the person's paycheck for that month for payment of state income tax, federal income tax, and the tax prescribed by the federal Insurance Contribution Act (26 U.S.C. 3101 et seq.); plus

(C) transportation expenses for that month; plus

(D) any mandatory expenses required by the employer as a condition of employment.

(h) The division of disability, aging, and rehabilitative services, in cooperation with the state department of health taking into account licensure requirements under IC 16-28, shall adopt rules under

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IC 4-22-2 governing the reimbursement to facilities under this section. The rules must be designed to determine the costs that must be incurred by efficiently and economically operated facilities to provide room, board, laundry, and other services, along with minimal administrative direction to individuals who receive residential care in the facilities under this section. A rule adopted under this subsection by:

- (1) the division; or
- (2) the state department of health;

must conform to the rules for residential care facilities that are licensed under IC 16-28.

(i) A rate established under this section may be appealed according to the procedures under IC 4-21.5.

(j) The division shall annually review each facility's rate using the following:

- (1) Generally accepted accounting principles.
- (2) The costs incurred by efficiently and economically operated facilities in order to provide care and services in conformity with quality and safety standards and applicable laws and rules.

SECTION 2. IC 12-10-6-2, AS AMENDED BY P.L.272-1999, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) An individual who is incapable of residing in the individual's own home may apply for residential care assistance under this section. The determination of eligibility for residential care assistance is the responsibility of the division. Except as provided in subsections (g) and (i), an individual is eligible for residential care assistance if the division determines that the individual:

- (1) is a recipient of Medicaid or the federal Supplemental Security Income program;
- (2) is incapable of residing in the individual's own home because of dementia, mental illness, or a physical disability;
- (3) requires a degree of care less than that provided by a health care facility licensed under IC 16-28; and
- (4) can be adequately cared for in a residential care setting.

(b) Individuals suffering from mental retardation may not be admitted to a home or facility that provides residential care under this section.

(c) A service coordinator employed by the division may:

- (1) evaluate a person seeking admission to a home or facility under subsection (a); or
- (2) evaluate a person who has been admitted to a home or facility under subsection (a), including a review of the existing evaluations in the person's record at the home or facility.

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1 If the service coordinator determines the person evaluated under this
 2 subsection is mentally retarded, the service coordinator may
 3 recommend an alternative placement for the person.

4 (d) Except as provided in section 5 of this chapter, residential care
 5 consists of only room, board, and laundry, along with minimal
 6 administrative direction. State financial assistance may be provided for
 7 such care in a boarding or residential home of the applicant's choosing
 8 that is licensed under IC 16-28 or a Christian Science facility listed and
 9 certified by the Commission for Accreditation of Christian Science
 10 Nursing Organizations/Facilities, Inc., that meets certain life safety
 11 standards considered necessary by the state fire marshal. Payment for
 12 such care shall be made to the provider of the care according to
 13 division directives and supervision. The amount of nonmedical
 14 assistance to be paid on behalf of a recipient living in a boarding home,
 15 residential home, or Christian Science facility shall be based on the
 16 daily rate established by the division. The rate for facilities that are
 17 referred to in this section and licensed under IC 16-28 may not exceed
 18 an upper rate limit established by a rule adopted by the division. The
 19 recipient may retain from the recipient's income a monthly personal
 20 allowance of **fifty one hundred dollars (\$50): (\$100)**. This amount is
 21 exempt from income eligibility consideration by the division and may
 22 be exclusively used by the recipient for the recipient's personal needs.
 23 However, if the recipient's income is less than the amount of the
 24 personal allowance, the division shall pay to the recipient the
 25 difference between the amount of the personal allowance and the
 26 recipient's income. A reserve or an accumulated balance from such a
 27 source, together with other sources, may not be allowed to exceed the
 28 state's resource allowance allowed for adults eligible for state
 29 supplemental assistance or Medicaid as established by the rules of the
 30 office of Medicaid policy and planning.

31 (e) In addition to the amount that may be retained as a personal
 32 allowance under this section, an individual shall be allowed to retain
 33 an amount equal to the individual's state and local income tax liability.
 34 The amount that may be retained during a month may not exceed
 35 one-third (1/3) of the individual's state and local income tax liability for
 36 the calendar quarter in which that month occurs. This amount is
 37 exempt from income eligibility consideration by the division. The
 38 amount retained shall be used by the individual to pay any state or local
 39 income taxes owed.

40 (f) In addition to the amounts that may be retained under
 41 subsections (d) and (e), an eligible individual may retain a Holocaust
 42 victim's settlement payment. The payment is exempt from income

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eligibility consideration by the division.

(g) The rate of payment to the provider shall be determined in accordance with a prospective prenegotiated payment rate predicated on a reasonable cost related basis, with a growth of profit factor, as determined in accordance with generally accepted accounting principles and methods, and written standards and criteria, as established by the division. The division shall establish an administrative appeal procedure to be followed if rate disagreement occurs if the provider can demonstrate to the division the necessity of costs in excess of the allowed or authorized fee for the specific boarding or residential home. The amount may not exceed the maximum established under subsection (d).

(h) The personal allowance for one (1) month for an individual described in subsection (a) is the amount that an individual would be entitled to retain under subsection (d) plus an amount equal to one-half (1/2) of the remainder of:

- (1) gross earned income for that month; minus
- (2) the sum of:
 - (A) sixteen dollars (\$16); plus
 - (B) the amount withheld from the person's paycheck for that month for payment of state income tax, federal income tax, and the tax prescribed by the federal Insurance Contribution Act (26 U.S.C. 3101 et seq.); plus
 - (C) transportation expenses for that month; plus
 - (D) any mandatory expenses required by the employer as a condition of employment.

(i) An individual who, before September 1, 1983, has been admitted to a home or facility that provides residential care under this section is eligible for residential care in the home or facility.

(j) The director of the division may contract with the division of mental health or the division of disability, aging, and rehabilitative services to purchase services for individuals suffering from mental illness or a developmental disability by providing money to supplement the appropriation for community residential care programs established under IC 12-22-2 or community residential programs established under IC 12-11-1.1-1.

(k) A person with a mental illness may not be placed in a Christian Science facility listed and certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc., unless the facility is licensed under IC 16-28.

SECTION 3. IC 12-15-7-2, AS AMENDED BY P.L.272-1999, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2001]: Sec. 2. ~~Fifty~~ **One hundred** dollars ~~(\$50)~~ **(\$100)**
2 monthly may be exempt from income eligibility consideration.

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